

**Floor Statement of the Honorable Jeff Miller  
Chairman  
Committee on Veterans' Affairs  
U.S. House of Representatives**

**H.R. 1994, As Amended, The VA Accountability Act of 2015**

**July 29, 2015**

[Mr./Madam] Chair, my bill would provide the Secretary of the Department of Veterans Affairs with yet another tool to instill accountability at VA by allowing him or her to remove or demote any employee for poor performance or misconduct.

The bill also contains language to protect, let me say that again, to protect, whistleblowers, by stipulating that an employee may not be removed under this new authority if they have an open claim at the office of special counsel until that claim is closed.

To add even more protections for those who blow the whistle at VA, my bill would also set up a new process, to be used in addition to any other process currently allowed by law, which would protect whistleblowers from retaliation and removal while they bring issues to light up through their chain of command.

My bill also makes changes to the senior executive service performance evaluation system.

It also allows the Secretary to recoup a portion of an SES employee's retirement benefits if they are convicted of a felony related to their work performance, and limits paid administrative leave to fourteen days within a one year time frame for any VA employee.

H.R. 1994, as amended, would also extend to eighteen months, the probationary period for all new VA employees to ensure a complete evaluation before offering permanent status.

Finally, my bill requires that GAO do a study on VA time and space spent on union activities.

I agree with all of my colleagues that the great majority of VA's employees are hard-working public servants who are dedicated to providing quality healthcare and benefits for veterans.

And I am sure that the majority of these employees who are dedicated to the mission of the department are just as frustrated as most of us are that problem employees continue to be moved to a new position or placed in a corner as opposed to removed from the pay roll.

We have seen how the presence of poor performers and misconduct ranging from unethical practices to outright criminal behavior can spread like a cancer through a workforce.

And when the Secretary comes across this presence of poor performance or misconduct, as we have seen time and time again across the country, such as at phoenix, Denver, central Alabama,

Philadelphia, Los Angeles, in my home state of Florida, and many other locations nationwide, it is nearly impossible to remove that cancer in a reasonable amount of time due to current civil service rules.

This is not just my view, a recent GAO study found that it can take six months to a year, or sometimes significantly longer, to fire poor performing government employees.

More telling, last month, VA's Deputy Secretary Gibson sat before the VA committee and admitted it was too difficult to fire a substandard VA employee.

We should all agree that it defies common sense for it to take many months or even years to fire a poor performing employee.

We as members of Congress and American citizens appreciate the sacrifices veterans have made, and always argue that they deserve nothing but the highest quality care and treatment, but in my view, bad employees mean bad customer service and an impediment to the quality services our veterans have earned.

If we truly want better for our veterans, then the status quo is simply unacceptable. I know there are concerns that this bill will hurt the department's ability to recruit and retain good employees and will hurt employee morale.

I don't think this could be further from the truth.

The best way to improve morale is to get rid of the causes of the dysfunction we currently see all over VA.

Nobody enjoys working for an organization that fails to hold poor performers accountable, and the employees VA should only want to recruit are those who want to work in an environment where they know everyone is respected and can be held accountable for their actions.

Some have also said that this bill is not needed, because VA fires employees all of the time.

But raw numbers don't tell the whole story.

Following the year in which we witnessed the biggest scandal in VA history, only three, let me say that again, three, employees, of a workforce of over three hundred and forty thousand [340,000] have been successfully fired for wait time manipulation.

These numbers, or lack thereof, make it clear that more work needs to be done to turn the tide at VA and change the culture within the department.

That is why this legislation is not punitive, but is necessary if we truly want the Secretary to make the changes this Congress, the American people, and most importantly our veterans, expect to see made.

I know that the unions oppose this and continue to compare my bill to current law in an attempt to illustrate what my bill is lacking in their opinion.

But comparing my bill to current law ignores the far too often egregious effects of current civil service laws which have contributed to the scandals at VA.

Yes, the bill before us today is different from current law, because the current law needs to be changed and that is what I and many of my colleagues are trying to accomplish with this legislation.

Despite our attempts to reach a measure of common ground with the unions, they have made it clear from the beginning that pretty much anything but the status quo will not garner their support.

Well, we have proven that the status quo is not working; it's failing the mission of the department and its failing the veterans the VA is supposed to serve.

It is time for change.

The Secretary needs the ability to make real reforms, and he needs to be able to do it quicker than the current average timeline of six to twelve months to remove an employee.

It has also come to my attention that the administration has recently come out saying they strongly oppose the bill and could potentially veto it if it arrives at the president's desk.

But this removal authority for all VA employees is modeled after the same authority provided in the choice act last summer to remove SES employees.

The same authority, in fact, that, at the bill signing ceremony almost exactly this time last year, the president said, and I quote

“If you engage in an unethical practice, if you cover up a serious problem, you should be fired. Period. It shouldn't be that difficult.”

[Mr./Madam] Chair, I am not sure why the president has changed his position on this almost exactly a year later.

The voice of the unions should not be heard over the voice of our veterans.

We need to continue to push for the same change we pushed for last year; now is not the time to change our belief in the need for greater accountability within VA.

Our veterans still expect us to continue to advocate for them as more and more of VA's missteps are brought to light every single day, whether they are on the front page of the paper or not.

We cannot continue to put the needs of employees whose performance or misconduct would not be tolerated in the private sector, ahead of our nation's veterans because we are scared of change or because we don't want to upset the unions.

Ladies and gentlemen, if we do not at least try to give the Secretary the tools he or she needs to hold VA employees accountable then we are just as culpable for any future VA failures, as the antiquated civil service laws that foster those failures now.

There is not a doubt in my mind that all of my colleagues here today care for our nation's veterans.

But today we can decide to stand with our veterans or we can stand with the status quo, which I believe has failed them and the American public for far too long.